

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Jeremy Viles,

Plaintiff,

v.

Stuart Allan & Associates, Inc.; and
DOES 1-10, inclusive,

Defendants.

:
:
: Civil Action No.: 1:13-CV-0060 (NAM/CFH)
:
:
:
:
:
:
:
:
:
:
:

COMPLAINT

For this Complaint, the Plaintiff, Jeremy Viles, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of the Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendants and their agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Jeremy Viles ("Plaintiff"), is an adult individual residing in Catskill, New York, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Stuart Allan & Associates, Inc. ("SAA"), is an Arizona business entity with an address of The Stuart Allan Building, 5447 East Fifth Street, Suite 110, Tucson, Arizona

85711, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by SAA and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. SAA at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to SAS for collection, or SAS was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. SAA Engages in Harassment and Abusive Tactics

12. On October 13, 2012, after having been noticed a delinquent entry on his Experian credit report concerning the Debt, Plaintiff mailed Defendants a request to validate the Debt and to cease telephone communication.

13. Thereafter, due to lack of response from Defendants, Plaintiff mailed Defendants yet another letter requesting validation of the Debt.

14. Still, Defendants failed to validate the entry and, on December 1, 2012, Plaintiff contacted Defendants in order to request validation.

15. Defendants confirmed that they had received Plaintiff's correspondence and offered to email validation paperwork to Plaintiff.

16. Plaintiff informed Defendants that he would prefer that Defendants mail the paperwork instead.

17. Defendants agreed to do so. However, to date, Defendants failed to send any correspondence to Plaintiff.

18. On December 18, 2012, Plaintiff sent Defendants another request for debt validation along with a request to delete the entry from his credit report. Additionally, Plaintiff sent Defendants another request not to contact him by telephone by certified mail.

19. Despite having received the foregoing letter, Defendants placed calls to Plaintiff on December 14th, December 19th, and December 28.

20. Further, Defendants failed to inform Plaintiff of his rights under the state and federal laws by written correspondence within 5 days after the initial communication, including the right to dispute the Debt.

C. Plaintiff Suffered Actual Damages

21. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

22. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I

VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692, et seq.

23. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. The Defendants' conduct violated 15 U.S.C. § 1692c(c) in that Defendants contacted the Plaintiff after having received written notification from the Plaintiff to cease communication.

25. The Defendants' conduct violated 15 U.S.C. § 1692g(a) in that Defendants failed to send Plaintiff an initial letter within five days of its initial contact with Plaintiff as required by law.

26. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

27. The Plaintiff is entitled to damages as a result of Defendants' violations.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff's favor and against the Defendants as follows:

1. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Against each of the named the Defendants, awarding the Plaintiff statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);

3. Against the named the Defendants, jointly and severally, awarding the Plaintiff recovery of the costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.

§ 1692k(a)(3);

4. Against the named the Defendants, jointly and severally, awarding the Plaintiff punitive damages in such amount as is found appropriate; and

5. Granting the Plaintiff such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 16, 2013

Respectfully submitted,

By /s/ Sergei Lemberg

Sergei Lemberg (SL 6331)
LEMBERG & ASSOCIATES L.L.C.
1100 Summer Street, 3rd Floor
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (203) 653-3424
Attorneys for Plaintiff